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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Soukup (GB 2116823) or Evers et al (US 4041186) for the reasons set forth in rejecting the claims in the last Office action. The amendments to the claims are not seen to influence the conclusion of unpatentability previously set forth.

Soukup discloses the addition of a mercapto-alkanone to coffee beverages (see entire document).

Evers et al disclose the addition of mercapto-alkanones to foodstuffs (see entire document, especially claims 1 and 2).

The claims appear to differ as to the recitation of specific amounts and the recitation of increasing organoleptic properties.

Soukup and Evers et al teach the use of mercapto-alkanones. The increase in organoleptic properties would be no more than obvious to the prior art as the mercapto-alkanones are used. Once the art has recognized the use of mercapto-alkanones in foods and beverages, the use and manipulation of amounts and other mercapto-alkanones would be no more than obvious to a person of ordinary skill in the art. In the absence of a showing to the contrary, it would have been obvious to a person of ordinary skill in the art, at the time the invention was made to use and manipulate other

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mercapto-alkanones in foods and beverages because the use of mercapto-alkanones is conventional in the food and beverage art.

Applicant's arguments filed March 3, 2011 have been fully considered but they are not persuasive.

Applicant argues that neither Soukup (GB 2116823) nor Evers et al (US 4041186) teach straight chain C4-C5 mercapto-alkanones.

Soukup and Evers et al both teach the use of mercapto-alkanones. In the absence of a showing to the contrary, once the art has recognized the use of mercapto-alkanones in foods and beverages the use and manipulation of other mercapto-alkanones would be no more than obvious to a person of ordinary skill in the art.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Wong whose telephone number is (571)272-1411. The examiner can normally be reached on Tuesday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Humera Naz Sheikh can be reached on 571-272-0604. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Leslie Wong/
Primary Examiner, Art Unit 1789

LAW
April 8, 2011